

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1065

Introduced by Senator Monning

February 16, 2016

An act to add Section 1294.4 to the Code of Civil Procedure, relating to arbitration.

LEGISLATIVE COUNSEL'S DIGEST

SB 1065, as amended, Monning. Dismissal or denial of petitions to compel arbitration: appeals: Elder and Dependent Adult Civil Protection Act.

Existing law, the Elder and Dependent Adult Civil Protection Act, establishes various procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse, and it sets forth specific provisions governing civil actions arising from the abuse of elderly or dependent adults. Existing law permits a party to a civil action who is over 70 years of age to petition the court for preference under certain circumstances. Under existing law, an aggrieved party may appeal certain orders and judgments, including an order dismissing or denying a petition to compel arbitration. Existing law specifies the time in which specified actions must occur during an appeal.

~~This bill would establish an expedited process by which a party, who has filed a claim pursuant to the Elder and Dependent Adult Civil Protection Act and has been granted a preference may appeal an order dismissing or denying a petition to compel arbitration. This bill would shorten the time in which specified actions in the appeal must occur;~~

but would authorize the parties or the court of appeal to extend or waive these time limitations, as specified.

This bill would require the court of appeal, in an appeal of an order dismissing or denying a petition to compel arbitration involving a claim under the Elder and Dependent Adult Civil Protection Act in which a party has been granted a court preference, to issue its decision no later than 100 days after the notice of appeal is filed, except as specified. This bill would require the Judicial Council, no later than July 1, 2017, to adopt rules implementing this provision and shortening the time within which a party may file a notice of appeal in these cases.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Elders and dependent adults are vulnerable to abuse, neglect,
4 or abandonment and this state has a responsibility to protect these
5 persons.

6 (b) This state has enacted special protections for elderly persons,
7 including the enactment of the Elder and Dependent Adult Civil
8 Protection Act (Chapter 11 (commencing with Section 15600) of
9 Part 3 of Division 9 of the Welfare and Institutions Code).

10 (c) This state has also enacted Section 36 of the Code of Civil
11 Procedure, under which a party to a civil action who is over 70
12 years of age may petition the court for a preference.

13 (d) The Legislature, therefore, consistent with the joint goals
14 of the Elder and Dependent Adult Civil Protection Act and Section
15 36 of the Code of Civil Procedure, wishes to enact a limited
16 expedited appeal process for ~~those persons~~ *a person filing claims*
17 *a claim arising* under the Elder and Dependent Adult Civil
18 Protection Act ~~who have who has received preferences in court in~~
19 ~~order a court preference to expedite these claims.~~ *the claim.*

20 SEC. 2. Section 1294.4 is added to the Code of Civil Procedure,
21 to read:

22 1294.4. (a) Except as provided in subdivision (b), in an appeal
23 filed pursuant to subdivision (a) of Section 1294 involving a claim
24 under the Elder and Dependent Adult Civil Protection Act (Chapter
25 11 (commencing with Section 15600) of Part 3 of Division 9 of the

1 *Welfare and Institutions Code) in which a party has been granted*
2 *a preference pursuant to Section 36 of this code, the court of appeal*
3 *shall issue its decision no later than 100 days after the notice of*
4 *appeal is filed.*

5 *(b) The court of appeal may grant an extension of time in the*
6 *appeal only if good cause is shown and the extension will promote*
7 *the interests of justice.*

8 *(c) The Judicial Council shall, on or before July 1, 2017, adopt*
9 *rules of court to do both of the following:*

10 *(1) Implement subdivisions (a) and (b).*

11 *(2) Establish a shortened notice of appeal period for the cases*
12 *described in subdivision (a).*

13 ~~SEC. 2. Section 1294.4 is added to the Code of Civil Procedure;~~
14 ~~to read:~~

15 ~~1294.4. (a) Except as provided in subdivision (b), in an appeal~~
16 ~~filed pursuant to subdivision (a) of Section 1294 in which a party~~
17 ~~filed the underlying claim pursuant to the Elder and Dependent~~
18 ~~Adult Civil Protection Act (Chapter 11 (commencing with Section~~
19 ~~15600) of Part 3 of Division 9 of the Welfare and Institutions Code)~~
20 ~~and was granted a preference pursuant to Section 36 of this code;~~
21 ~~all of the following shall apply:~~

22 ~~(1) No later than 15 days after service of a notice of entry of~~
23 ~~the judgment, the appellant shall file the notice of appeal and the~~
24 ~~notice designating the record on appeal.~~

25 ~~(2) (A) No later than 10 days after receipt of a notice~~
26 ~~designating the record on appeal that requests the clerk's transcript;~~
27 ~~the clerk of the trial court shall prepare and file the clerk's~~
28 ~~transcript pursuant to Rule 8.832 of the California Rules of Court.~~
29 ~~The clerk shall send the transcription by the most expedited means~~
30 ~~available, including by email.~~

31 ~~(B) In lieu of the clerk's transcript filed by the clerk, a party~~
32 ~~may elect to use an appendix to file and serve the notice designating~~
33 ~~the record on appeal pursuant to Rule 8.124 of the California Rules~~
34 ~~of Court.~~

35 ~~(3) (A) Immediately upon receipt of a notice designating the~~
36 ~~record on appeal that requests the reporter's transcript, the clerk~~
37 ~~of the trial court shall provide the notice to the reporter by the most~~
38 ~~expedited means available, including by email. No later than 10~~
39 ~~days after receipt of the notice from the clerk, the reporter shall~~
40 ~~prepare, certify, and file in the trial court the reporter's transcript~~

~~pursuant to Rule 8.834 of the California Rules of Court. Immediately after filing the reporter's transcript, the reporter shall notify all parties to the appeal by the most expedited means available, including by email, that the transcript is complete.~~

~~(B) In lieu of this reporter's transcript filed by the reporter, the appellant may elect to file certified copies of previously prepared transcripts with his or her opening brief, provided that he or she indicated that in his or her notice designating the record on appeal.~~

~~(4) (A) No later than 20 days after filing a complete and accurate record of the trial court proceedings in the court of appeal, or, if the appellant elects to file transcripts pursuant to clause (A) of paragraph (2) and clause (A) of paragraph (3), no later than 40 days after filing the notice of appeal, the appellant shall file and serve his or her opening brief, which shall be filed and served by the most expedited means available, including by email. At the time he or she files the opening brief, the appellant shall either expressly request or waive oral argument.~~

~~(B) No later than 20 days after the opening brief is filed and served, the respondent shall file and serve his or her brief, which shall be filed and served by the most expedited means available, including by email. At the time he or she files the brief, the respondent shall either expressly request or waive oral argument.~~

~~(C) No later than 20 days after the respondent's brief is filed and served, the appellant may file and serve his or her reply brief, which shall be filed and served by the most expedited means available, including by email.~~

~~(5) If either party requests oral argument, the court of appeal shall set oral argument to be held no later than 30 days after the reply brief is filed and served or, if a reply brief is not filed and served, no later than 20 days after the respondent's brief is filed and served.~~

~~(6) No later than 15 days after the submission of the matter to the court of appeal for decision, the court of appeal shall issue its decision.~~

~~(b) (1) The parties to the appeal may, by stipulation, extend or waive any time limitation set forth in this section by filing a written agreement signed by all parties with the trial court if extending or waiving the time limitation for filing the notice of appeal or with the court of appeal if extending or waiving any other time limitation in this section. The parties shall not extend any time limitation in~~

1 ~~this section to be longer than the time limitation set forth in statute~~
2 ~~or the California Rules of Court for all other appeals filed pursuant~~
3 ~~to subdivision (a) of Section 1294.~~
4 ~~(2) The court of appeal may extend any time limitation set forth~~
5 ~~in this section upon a showing of extraordinary good cause.~~

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